

RCE for 10/042,975 on 02/23/2011

**REMARKS/ARGUMENTS**

These remarks will take the points of the Office Action (OA) of August 23, 2010 in the order that they were made.

In the OA, on page 2, end of second paragraph, examiner stated that applicant's claim was not tied to a statutory class of invention. Applicant is under the impression that the method claims 30-37 are integrally tied to a computer database system (the specification, throughout, describes the invention as both a computer database method and system), and that the apparatus claims 38-48 inherently describe a special purpose computer, a tangible apparatus.

Applicant has added claim 49 in the hope that it has a more acceptable form.

On pages 3-6, examiner discusses the prior art. Applicant believes that he has addressed this art in previous responses to office actions.

However, on page 7, last paragraph, examiner points out that applicant's responses have not clearly distinguished the claimed invention from the art of Landesmann and Marshall. Applicant thought he had distinguished his invention from theirs, but will make additional remarks here.

Landesmann is, by its own definition, a purchase-*history* based invention. Applicant's claimed invention does not rely on purchase histories to target messages, but instead enables verification of *future* actions, such as purchases, selecting those actions via a probabilistic, hyper-efficient technique.

Landesmann, which became patent, 7,844,489, states (in the application):

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[0092] The basic function performed by the system and method of the present invention is to allow buyer entities to submit their credit card statements and other records that detail past purchases to an entity that is preferably not affiliated with any particular merchant. Third party marketers/advertisers would then provide search criteria, or have search criteria selected for them, to search the database of past histories and offer highly attractive promotions to the group resulting from that search criteria. The past purchase history records could be supplemented by asking buyer entities questions...

Claim 23 of patent 7,844,489 does describe “a component for obtaining information on whether the buying entity made a follow-up purchase...after accepting the incentive.” Other claims in this patent have a essentially identical components or methods. These components may or may not have some relation to applicant’s claimed invention, but again, they are for building a purchase *history* from which to target ads. Landesmann is similar in this sense to Goldhaber in its use of histories (Landesmann worked for N. Goldhaber at Cybergold).

In any case, Landesmann’s methods/systems/components clearly do not employ probabilistic selection for payment and verification functions. Probabilistic selection makes applicant’s invention *hyper-efficient* and user-friendly for advertisers/payers, database operators, and recipients. There are other differences between the applicant’s invention and Landesmann, but these signal differences are enough to brightly distinguish the inventions.

Finally, if it matters, applicant’s disclosures precede Landesmann’s.

Regarding Marshall, the cited application is directed at tracking attention for the purpose of paying rewards/incentives, “[0007] a method is provided to track and reward time and attention in viewing content.” As such, Marshall’s field is indeed related to the field of applicant’s invention – rewards for attention to messages/content.

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However, applicant's claimed invention is not directed at tracking attention. It can incorporate the tracking of attention, but that is not its primary purpose. Applicant's claimed invention does not discuss attention tracking. Applicant's invention enables an advertiser to *efficiently* verify that a person who has received an advertiser message matches the advertiser's desired audience criteria, and further enables that advertiser to efficiently pay qualified/verified audience members for receiving that message. An additional explanation of the efficiency and user-friendliness of the claimed invention can be seen at [www.paybuyer.com/about/white\\_paper/](http://www.paybuyer.com/about/white_paper/).

### **Request for Interview and Assistance in Claim Drafting**

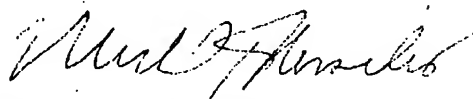
Given that Landesmann was granted a patent in November of 2010, it seems to applicant that applicant's specification contains matter meriting allowance.

At this point in the prosecution, many issues have been developed by examiner and applicant. Thus, at this juncture, applicant requests an interview and the assistance of examiner in drafting a claim.

If examiner believes that applicant's specification contains nothing allowable, then it may be time to move to the appeals process. Before going that route, it seems reasonable to enlist examiner's aid in attempting to draft a claim.

Applicant appreciates Examiner's hard, lengthy work on this application.

Respectfully submitted,



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602-295-4967

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